

Chang, Lisa

From: Chang, Lisa
Sent: Thursday, August 13, 2015 9:46 AM
To: Steiner-Riley, Cara; Fullagar, Jill
Cc: Bonifaci, Angela
Subject: Ag NPS-related website for review
Attachments: EPA markup of letter 8-13-15.docx; EPA markup of website 8-13-15.docx

Importance: High

Cara and Jill,

Thank you for being willing to do a quick review of the Puget Sound team's feedback to a cooperative agreement recipient on their draft website, and their accompanying 1-page letter. Angela and Dan have reviewed this and asked for your once-over.

Cara – in the website document, which should be read first, I've yellow-highlighted the comments that I think ORC could focus on, as those passages make CWA statements that Dan wanted to make sure were solid. On the letter, if your staff could do a once-over of the whole page, that would be helpful.

Jill – similarly, in the website document, which you should look at first, I've blue-highlighted comments I think need impaired waters listing perspective. I think your once-over of all the feedback would be helpful, if you have time, because the recipient is basing so much of this website on impaired waters information. And if you could take a look at the letter as well, that would be great.

There is any possibility of having this back by the end of the day, we'd be most appreciative. Please call with any questions.

Lisa 3-0226

Draft letter to elected officials

Everyone knows that clean water is essential for our health, and is especially critical for our children. Cold, clean water is also essential to the health of our fish and shellfish.

But what's far less well-known is that ~~many some~~ farming practices commonly used in our state send ~~potentially harmful pollutants~~ toxins into our waterways, ~~polluting degrading~~ our water, threatening public health, destroying vital habitat and endangering our fish and shellfish.

Farming right to the edge of our streams allows pesticides, fertilizers, and land-applied manure to enter into our waterways, and is Washington's largest source of stream pollution. These practices are responsible for nearly a third of the polluted rivers and streams in our state.

Unfortunately, ~~in many cases state water quality permitting requirements do not apply to these types of "non-point" sources of water pollution. Washington's agriculture industry has been exempted from most state permitting requirements to control these types of water pollution.~~ Farmers are encouraged to use voluntary best practices, but ~~there has been limited use of these voluntary measures to date, many waters remain impaired by agricultural sources, and have not resulted in meeting federal or state pollution standards or recovering salmon populations remain threatened.~~

It is time to recognize that voluntary approaches have not been sufficient. Too many of our streams are polluted by agricultural practices. When public opinion research shows that three-quarters of Washingtonians support stronger laws protecting the health of our water resources in Washington, and most Washingtonians believe that protecting our water resources is even more important than growing our economy, it is time to recognize that ~~the public is ready to prioritize strong water resource protection~~ voluntary approaches alone are not working.

One effective solution is ~~mandatory streamside buffers.~~ Other industries that work with the land, such as timber harvesters and developers, are required to use streamside buffers to prevent stream pollution. Adequate buffers can help the agriculture industry do its part to protect our water resources, too. The science is overwhelming: 100 feet of natural vegetation between farmland and our waterways would keep most pesticides, fertilizers, cows and manure out of our streams, and it would promote healthy habitat for our fish.

This issue has received little attention from the Legislature to date, but should. Fully two-thirds of Washingtonians support 100-foot natural buffers between agriculture lands and streams.

It's time to clean up our streams, for healthy fish, healthy farms and healthy families. I hope you can commit to examining this issue further, including the extent of the problem and effectiveness of streamside buffers as a solution. Holding ~~all the agricultural industries~~ all the agricultural industries to the same responsibility as ~~other industries for non-point source pollution~~ other industries for non-point source pollution will help keep our rivers fishable, swimmable and drinkable for years to come.

Sincerely,

KUOW underwriting advertisement copy

Support for KUOW comes from What's Upstream dot com, a coalition of Washington clean water advocates working to protect salmon rivers and streams by addressing agricultural pollution as the major cause of pollution in salmon bearing streams. Clean water in Puget Sound starts with clean water upstream. More at What's upstream dot com.

Commented [LC1]: Needs to be supported by credible technical references.

Commented [LC2]: Also needs to be supported by credible technical references.

Commented [LC3]: Needs to be supported by credible technical references.

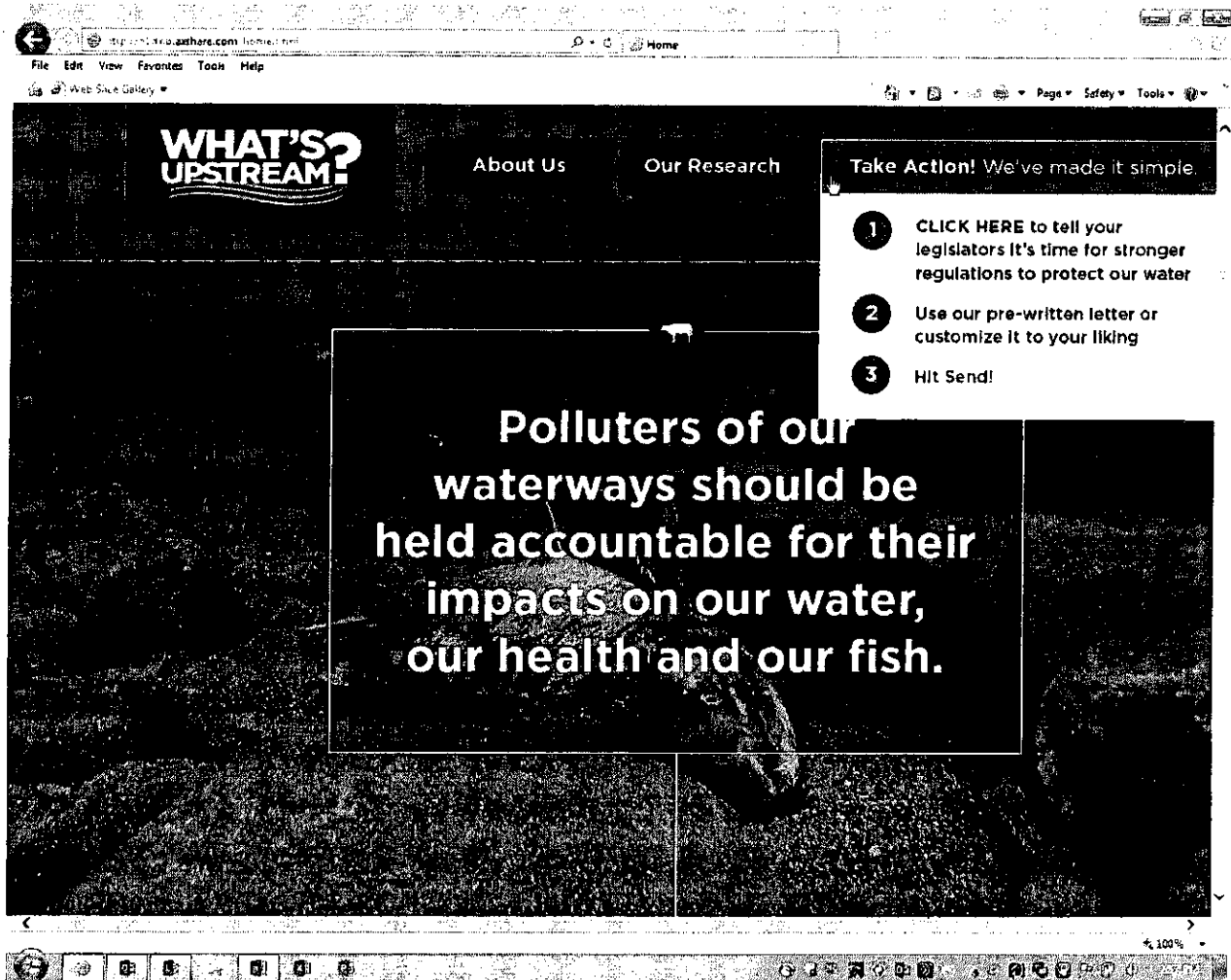
Commented [LC4]: Provide citations.

Commented [LC5]: Needs to be supported by credible technical references.

EPA 8/12/15 comments on Swinomish subaward draft website,
<http://n1dxiip.axshare.com/#p=home>

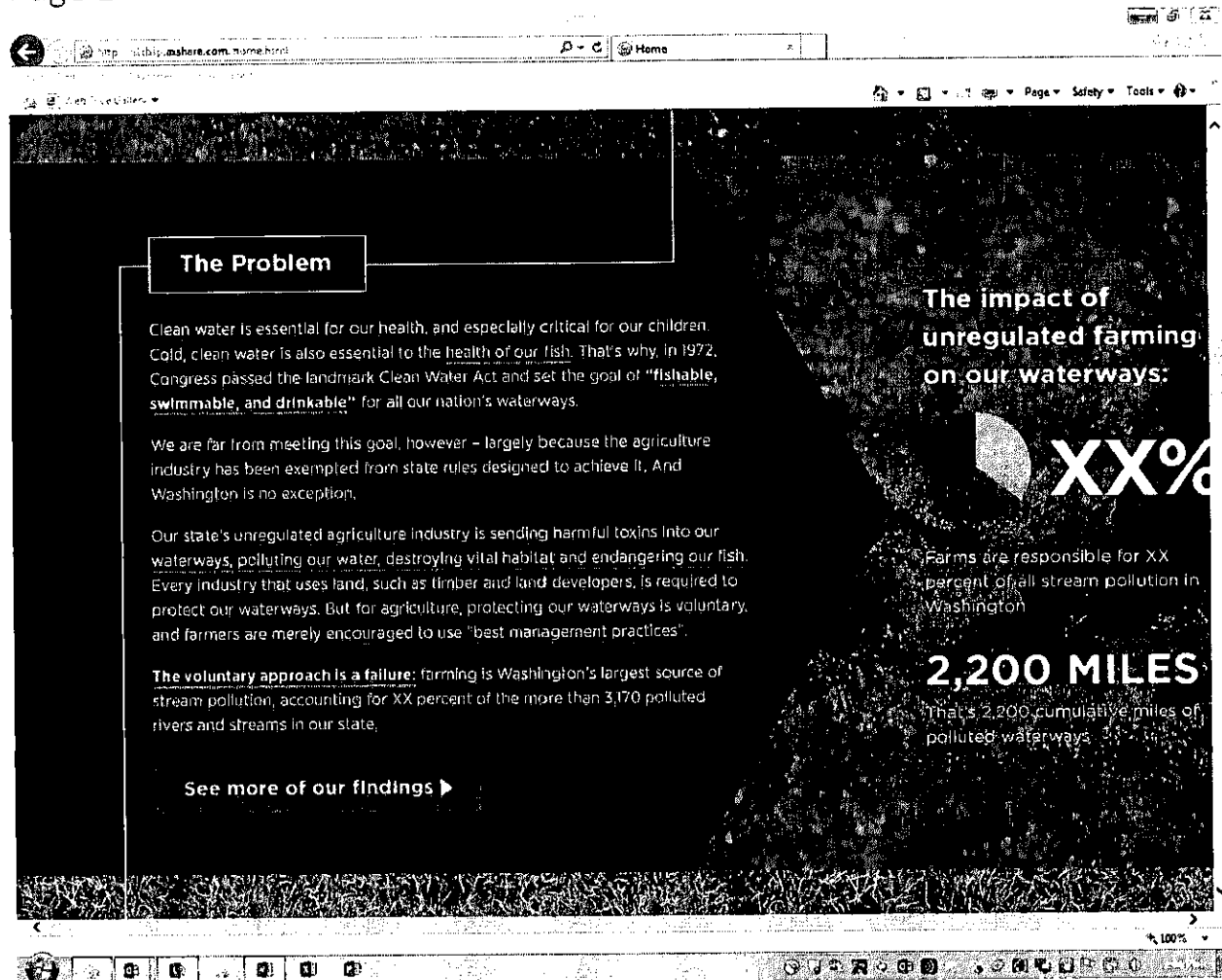
For discussion purposes only – not final comments

Page 1



Possible changes:

1. Edit text next to red number 1 as follows: "CLICK HERE to tell your legislators it's time for stronger regulations to protection of our water"
2. Suggested edit to box: "All polluters of us should be held accountable for our ~~their~~ impacts on ~~our~~ Washington's water, ~~our~~ health, and ~~our~~ fish."



Suggested edits:

1. Revise the second paragraph to provide context (if desired, this can be done with an updated version of Larry's chart (which was based on data in Table 2 on p. 5 in ECY's 2001 report, <https://fortress.wa.gov/ecy/publications/summarypages/0110015.html>).

The text can read something like "Yet thousands of stream miles in Washington fail to meet this goal and remain impaired from sources including agriculture, stormwater runoff, and septic tanks. We are far from meeting this goal, however – largely in part because state water quality permitting requirements do not apply to agricultural "non-point" sources of water pollution" (the citation for the permitting requirement statement is 40 CFR 122.3, <https://www.law.cornell.edu/cfr/text/40/122.3>) the agriculture industry has been exempted from state rules designed to achieve it. And Washington is no exception."

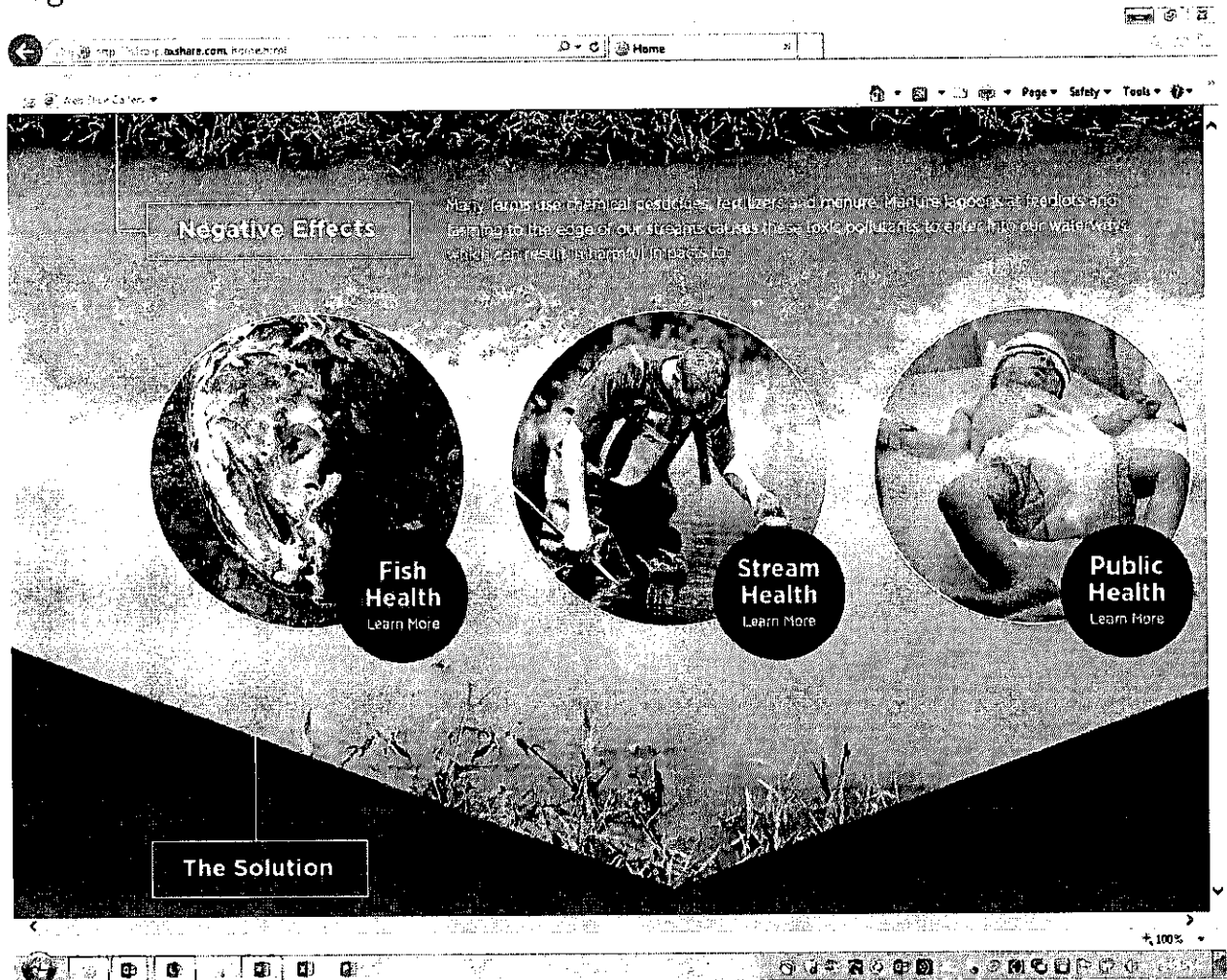
1. Third paragraph, "Our state's unregulated agriculture industry Certain unregulated agricultural practices is sending harmful toxins pollutants into our waterways, polluting degrading our water, destroying vital habitat and endangering our fish. Every industry Other industries that uses land, such as timber and land developers, is required operate under requirements to

protect our waterways. But for agriculture, protecting our waterways from non-point source pollution is voluntary, and farmers are merely encouraged to use "best management practices" (or "...protecting our waterways from non-point source pollution remains is voluntary, with a minority [ARE THERE DATA ON THESE NUMBERS] who have implemented adequately protective practices and farmers are merely encouraged to use.").

2. The assertions in the following statements must be clearly supported by a credible, current technical source, and must be clearly documented:

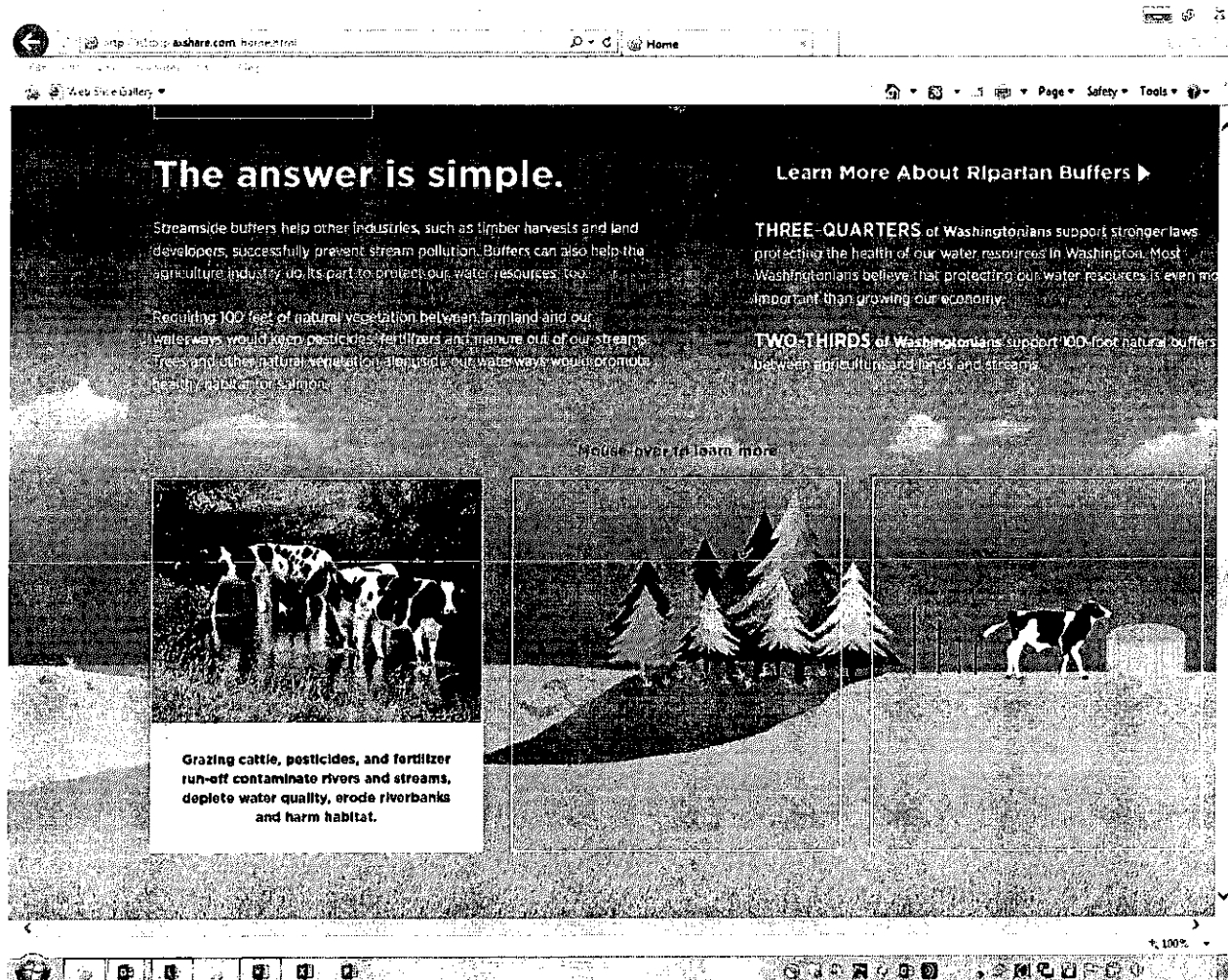
a. "The voluntary approach alone is not getting the job done is a failure: Despite years of effort by a progressive few, farming is remains Washington's largest source of stream pollution, accounting for XX percent of the more than 3,170 polluted rivers and streams in our state."

b. "Farms are responsible for XX percent of all stream pollution in Washington, 2,200 MILES. That's 2,200 cumulative miles of polluted waterways."



Suggested edits:

1. "Many farms use chemical pesticides, fertilizers and manure. Manure lagoons at feedlots and farming to the edge of our streams causes these ~~toxic~~ pollutants to enter into our waterways, which can result in harmful impacts to..."



Possible changes.

1. Header, "The answer is simple." As in the letter, change to something like "A key tool is streamside buffers."
2. First paragraph. "...~~successfully prevent~~ dramatically reduce stream pollution." Citations to support this statement are needed.
3. Second paragraph. "~~Requiring 100~~ One hundred..."



Possible changes:

1. "We need to regulations that will ensure...."
2. Under "About us," it is stated that "What's Upstream" is a project of the Tribe, CELP, EPA, PSP, WEC, and others. Have all these entities been given the opportunity to review and participate in the development of this content? Are all of them aware that this website is being presented as a joint project? This is an important point. All entities listed here should clearly agree to be listed as partners and agree with the content of this website. What process will be used to obtain and document their concurrence?



OUR RESEARCH

Since 1972, the Clean Water Act has been the primary way the federal government prevents point-source and non-point-source pollution from entering our waterways.

The Clean Water Act set a national goal of ensuring that all our waterways are **fishable, swimmable, and drinkable**. But are they? Major exemptions to the law granted to the agriculture industry are putting this goal at risk – in addition to the health of our fish, our waters and our people.



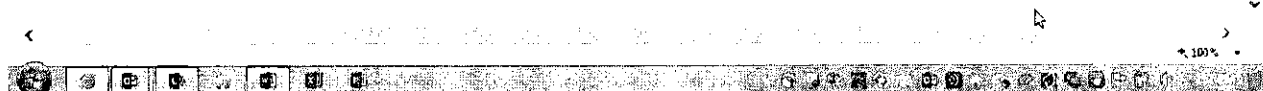
Fish Health – *Are Our Waterways Fishable?*

Cow feces, pesticide and fertilizer run-off, and agricultural practices that disturb riparian habitat increase stream temperatures and decrease dissolved oxygen levels, which is deadly for salmon.

D-051871

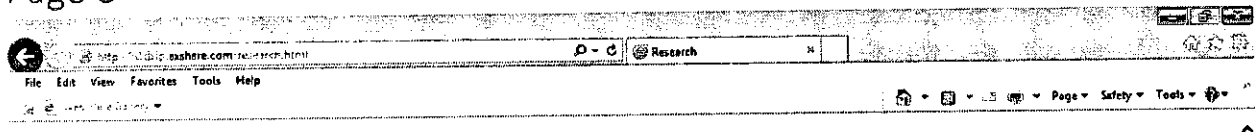
In 1991, the federal government declared Snake River sockeye salmon as endangered. In the next few years, 16 more species of salmon were listed as either threatened or endangered because of polluted habitat.

Washington Department of Fish & Wildlife: Salmon Recovery and Restoration



Questions/possible changes:

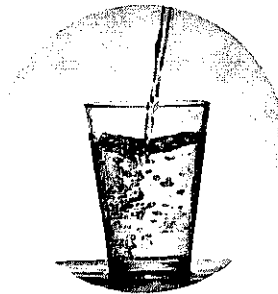
1. Under "Our Research:" Replace "Major exemptions to the law granted to the agriculture industry are putting..." with "Many of the nation's waters remain impaired due to agricultural non-point source pollution, which is not subject to federal water quality permitting requirements, putting..."
2. Under "Fish Health" – again, need context. Add sentence to beginning of first paragraph that says something like "Many sources lead to pollution impairments of Washington's waterways, including agriculture, stormwater runoff, septic tanks, and municipal point sources. With respect to agricultural sources, animal manure (cow feces)..."



Stream Health – Are Our Waterways Swimmable?

A recent GAO report finds that "at historical funding levels and water body restoration rates it would take longer than 1,000 years to restore all the water bodies that are now impaired by non-point source pollution."

GAO Report: Clean Water Act: Changes Needed If Key EPA Program Is to Help Fulfill the Nation's Water Quality Goals



Public Health – Are Our Waterways Drinkable?

Manure contains nitrates, which are acute contaminants that produce immediate (within hours or days) health effects upon exposure. High doses particularly threaten pregnant mothers with miscarriages, while babies can get methemoglobinemia, or "blue baby syndrome," which can be fatal. High nitrate levels may increase the risk of spontaneous abortions and other birth defects.

Andrea's documents
Andrea's map of Puget Sound Concentrated Animal Feeding Operations (CAFOs)



Issues/possible changes:

1. Under "Stream Health" – if the issue is "swimmable," not all non-point source pollution is bacterial. Add a sentence, "Many of these impaired waters exceed federal and state human health guidelines for recreational use of waters." And this statement will need a citation.
2. Under "Public Health" – don't the issues cited in this section pertain mainly to subsurface (groundwater/shallow groundwater)? Is there a pattern of nitrate concentrations in rivers and streams in WA that exceed the nitrate MCL? Is it appropriate to be highlighting these issues in a section on "waterways"?

If not, suggest editing the paragraph to say something like "Again, many sources lead to pollution impairments of Washington's waterways. With respect to agricultural sources, if improperly stored or used, animal waste has the potential to contribute pollutants such as nutrients (e.g., nitrate, phosphorous), organic matter, sediments, pathogens (e.g., giardia, cryptosporidium), heavy metals, hormones, antibiotics and ammonia to the waters we use for drinking, swimming and fishing." (EPA website, accessed 8/12/15, <http://www.epa.gov/region9/animalwaste/problem.html>).

And then, add a second paragraph that says something like "High nitrate levels originating from excess agricultural fertilizer and manure are a serious concern with respect to groundwater in certain parts of the State. Nitrates...[then continue with rest of paragraph, which should include citations]."



Habitat Health – How Riparian Buffers Ensure Our Waterways Are Fishable, Swimmable and Drinkable

Riparian habitat is critical for water quality and salmon health. Riparian vegetation provides shade to stream channels, contributes large woody debris to streams, adds small organic matter to streams, stabilizes stream banks, controls sediment inputs from surface erosion, and regulates nutrient and pollutant inputs to streams. Riparian buffers can mitigate much of the harm caused by pesticides and fertilizers, and tilling and grazing the end edge of waterways and streams.

Doc 22
Doc 23
Doc 28
ManTech Chapter 6



Washington's Current Regulations

Washington's current regulatory framework for protecting our waterways from pollution is the product of a handful of separate statutes. They include:

- The Forest Practices Act
- The Growth Management Act
- The Shoreline Management Act
- The Hydraulic Project Approval Act
- The State Environmental Policy Act

The state's voluntary water quality "Best Management Practices" for agriculture can be found here. A summary of the state's plan to address non-point source pollution can be found here.

Water Quality Improvement Plans

The state Department of Ecology currently manages 62 water quality improvement projects throughout Washington. To learn more or find out about the project nearest to you, click here.

Public Opinion

What's Upstream? partners have conducted opinion research among Washingtonians over the past three years about the importance of clean and healthy waterways. A summary of the results is included below.

[Summary page](#)

Comments:

1. Please confirm with ECY the following:
 - a. Under Habitat Health – do these documents represent BAS in WA on riparian buffers?
 - b. Under "Washington's Current Regulations – does this section, including the citations, accurately reflect WA's "current regulatory framework for protecting our waterways from pollution"?
2. Have the public opinion research results and interpretation undergone technical review by some knowledgeable external entity? In EPA comments on the FY12 workplan, we stated that "technical review is very relevant to this project" including the public opinion research work. In the subawardee's response to this comment, a commitment was made "to develop a more formalized technical review of the project." What were the results of the review of the public opinion research design, execution, and interpretation of results? It will be important for the research to be able to stand up to scrutiny by entities who are interested in this website and the information presented.